



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 5205-00

12 September 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps filed enclosure (1) with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 26 November 1999.

2. The Board, consisting of Mr. Chapman, Ms. Gilbert and Ms. Humberd, reviewed Petitioner's allegations of error and injustice on 6 September 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Naval Reserve on 11 February 1978 in the rate of ET1 (E-6). On 30 June 1981 he was issued a Notification of Eligibility for Retired Pay at Age 60. He was honorably discharged on 10 February 1982 at the expiration of his enlistment. Petitioner became 60 years of age on 26 November 1999. He states that he is currently drawing his retired pay as a former member.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that the Navy Personnel Command has routinely recommended favorable actions in similar

cases when an individual is qualified for reserve retirement and there is no explanation in the record why they were discharged and not transferred to the Retired Reserve.

e. The Board is aware that the Uniform Retirement Date Act, 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was in good standing in the Naval Reserve and would have been transferred to the Retired Reserve if he had requested it. Therefore, the Board concludes that he should be transferred to the Retired Reserve in the rate of ET1. Given the requirements of the Uniform Retirement Date Act, the Board further concludes that the record should be corrected to show that he transferred to the Retired Reserve effective 1 February 1982 vice being discharged on 10 February 1982. Finally, the record should be corrected to show that he transferred to the Retired List on his 60th birthday, 26 November 1999.

Finally, the Board concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his correct status in the Naval Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve on 1 February 1982 in the rate of ET1 vice being discharged on 10 February 1982. The record should be further corrected to show that he transferred to the Retired List on his 60th birthday.

b. That this Report of Proceedings be filed in Petitioner's naval record.

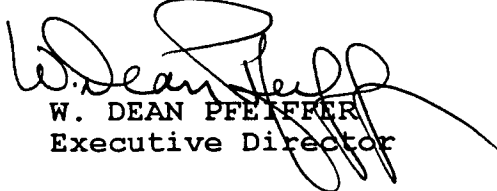
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director